THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 10th day of October,2007

W.P.No.16737 of 2000

Between:-

The Depot Manager,
APSRT Bus Depot,
Narsampet, Warangal District … Petitioner

and

B.L. Narayana
and another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.16737 of 2000

ORAL ORDER:

This Writ Petition is filed by the Management (A.P. State Road Transport Corporation) challenging the Award dated 23-12-1999 made in I.D.No.56 of 1986 on the file of Industrial Tribunal-cum-Labour Court, Warangal, wherein the petitioner-management was directed to reinstate the respondent-workman into service with full back wages and other attendant benefits. Further, the period of suspension was directed to be treated as on duty for all purposes.

It appears, 1st respondent was appointed as a Conductor in the A.P. State Road Transport Corporation in the year 1980. Thereafter, in pursuance of certain allegations made against him as to committing of cash and ticket irregularities while conducting bus on 11-1-1982 a charge sheet dated 18-1-1982 was issued enumerating the following charges:

1. For having violated the rule 'issue and start'.
2. For having failed to collect the fare and issue tickets to 13 passengers found travelling from Koravi to Nereda ex.stages 16 to 19.
3. For having failed to produce the statistical return (SR) to the checking officials at the time of checking when demanded by them.
4. For having behaved in an insubordinate manner with the checking officials and run away from the place of check with the S.R. and bus cash leaving the service amidst.
5. For having destroyed the statements offered by ticketless passengers.

After conducting a detailed enquiry into the matter, the management has removed the workman from service by an Order dated 2-6-1982. Aggrieved by the same, 1st respondent-workman raised a dispute before the conciliation authority and on failure of conciliation, the authority reported the matter to the Government and the Government, in turn, referred the matter under Section 10(1)(c) of the Industrial Disputes Act,1947 (for short the 'Act') for adjudication of the dispute before the Industrial Tribunal-cum-Labour Court, Warangal.

It was the contention of the workman-respondent herein, before the Labour Court, that on 11-1-1982 while he was conducting bus bearing No.APZ 6499 on route Narsampet to Nereda, a purported check was exercised at stage No.17 and a charge sheet was served on him on 18-1-1982. According to the 1st respondent herein, no check has taken place and, in fact, in view of certain incidents that happened, he had given a police report, because of which, the TTIs have developed grudge against him and issued a false charge memo. However, after conducting enquiry into the said charges, he was removed from service. Neither the charges are proved nor there is any evidence to show that he was involved in such misconduct. The charges are framed on the basis of a fake report given by the TTIs. A detailed counter was filed by the Management-petitioner herein stating that the check was really exercised and the checking officials found certain cash and ticket irregularities. The workman has neither issued the tickets nor collected fare and he has also not closed the SR; therefore, it must be deemed that the workman had intention of defrauding the revenues of the Corporation. The charges were proved in full and the respondent-workman does not deserve any relief as sought for.

It appears, an *ex parte* Award was passed on 26-9-1986.

Aggrieved by the same, the Corporation (Management) filed a Writ Petition being W.P.No.4415 of 1991, which was allowed on 7-9-1999 remanding the matter to the Labour Court for reconsideration. Even after remand, the petitioner-management has failed to produce any record whatsoever, except xerox copies of some documents. But, they were not taken into consideration by the Labour Court and the Labour Court again affirmed the Award passed by it earlier and directed the Management to reinstate the workman with continuity of service, attendant benefits and full back wages.

Learned counsel for the petitioner strenuously contended that the Labour Court was not correct in passing such an Award. The Labour Court ought to have accepted the Xerox copies of the documents filed by the Management and decided the matter on merits. Therefore, the very Award passed by the Labour Court is vitiated by procedure.

Whereas, learned counsel for the respondent-workman contended that the Award was passed on 26-9-1986. More than 5 years thereafter, the Management had filed Writ Petition No.4415 of 1991 before this Court. However, the same was entertained and the matter was remitted back to the Labour Court for fresh consideration. In spite of remand, the petitioner-management failed to produce any evidence whatsoever worth the name. Under those circumstances, the Labour Court rightly came to the conclusion that the respondent-workman is entitled for reinstatement with full back wages, continuity of service and all other attendant benefits. The Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

The sum and substance of the charges is that the 1st respondent has not closed the SR for two stages and did not issue tickets to 13 passengers within 2 fare stages. It is not the case of the petitioner-management that the respondent-workman had collected money and not issued the tickets. It appears, the passengers under the charge had boarded the bus at stage No.16 and bound to stage No.19. The check had taken place at stage No.17. Almost two stages were available for issuance of tickets. Initially, the Management did not produce any evidence. Therefore, the Labour Court passed an *ex parte* Award on 26-9-1986. That was a subject matter of Writ Petition, after 5 years, before this Court in Writ Petition No.4415 of 1991. Even after remand for reconsideration in 1999, the Management has not produced any evidence worth the name, except Xerox copies of some documents, but they were not accepted by the Labour Court. Even otherwise, now it is more than 25 years sine the misconduct was alleged to have been committed and it is not desirable to keep such a litigation alive. I am of the opinion that such litigation should be given a quietus at least at this stage.

In the facts and circumstances of the case, it cannot be said that the respondent-workman did not commit any misconduct. Not closing the SR and not issuing the tickets to 13 passengers within 2 fare stages itself is an illegality. Of course, this is a case where the workman did not collect fare and did not issue tickets. Under such circumstances, I am of the opinion that the Award passed by the Labour Court is liable to be modified and is accordingly modified as under:

> "The respondent-workman is entitled for reinstatement with continuity of service and attendant benefits, but only with 50% of back wages."

The Writ Petition is allowed to the extent indicated above. No order as to costs.

10-10-2007

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